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In re Application of :
PRECOPIO, Michael :
Application No.: 10/519,372 : **DECISION ON PETITION**
Filing Date: 23 December 2004 : **UNDER 37 CFR 1.182**
Attorney Docket No.: SU103 :
For: METHODS FOR TREATING :
ECTOPARASITE INFECTIONS ON THE :
MAMMALIAN BODY :

This communication is in response to applicant's "Petition to the PCT Legal Staff" filed in the United States Patent and Trademark Office on 23 February 2005, which is being treated as a Petition under 37 CFR 1.182.

BACKGROUND

On 23 December 2004, applicant filed a Transmittal Letter to the United States Designated/Elected Office Concerning a Filing Under 35 U.S.C. 371 (Form PTO-1390) requesting processing of the instant application as a national stage application of an international application under 35 U.S.C. § 371 accompanied by: a declaration; an assignment; a description, claims, abstract and drawings. However, the Transmittal Letter did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage. The papers submitted 23 December 2004 have been assigned application number 10/519,372.

On 23 February 2005, applicant filed "Petition to the PCT Legal Staff" which indicated that, "applicant herewith petitions the PCT Legal Staff to convert the above application mistakenly submitted under 35 U.S.C. 371 to a regular United States patent application (under 35 U.S.C. 111(a)) for a United States utility Letter Patent."

DISCUSSION

As stated above, the Transmittal Letter did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage, therefore, this application cannot presently be processed under 35 U.S.C. 371. However, the transmittal letter of 23 December 2004 was clearly an application for a United States patent. Applicant erred in identifying the application as a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicant cannot proceed under 35

U.S.C. 371 and applicant has filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicant's petition, construed as a petition under 37 CFR 1.182, to accept the papers filed on 23 December 2004 as an application filed under 35 U.S.C. 111(a).

CONCLUSION

As so construed, the above-noted petition is **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) with a filing date of 23 December 2004.



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